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American Association of Port Authorities

*Serving the Ports of Canada, the Caribbean,
Latin America and the United States*

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April 3, 2003

Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: Prior Notice of Imported Food Under the Public Health Security and Bioterrorism
Preparedness and Response Act of 2002, 68 Fed. Reg. 5428 (February 3, 2003)

Dear Sir or Madam:

Please accept these comments on behalf of the American Association of Port Authorities (AAPA) in the above referenced docket. Founded in 1912, AAPA represents virtually every U.S. public port agency, as well as the major port agencies in Canada, Latin America and the Caribbean. AAPA members are public entities mandated by law to serve public purposes, primarily the facilitation of waterborne commerce and the generation of local and regional economic growth. These comments represent the views of AAPA's 85 U.S. public port members.

AAPA shares the concerns raised by the World Shipping Council (WSC) about the application of the proposed rule for prior notice of the importation of food on shipments on cargo being transshipped through the United States but not destined for consumption in this country.

As WSC has indicated, the application of the notice provision to such cargo would not address the purpose of the law, which is to protect U.S. consumers of imported foods. We also agree that other security measures already in place, including the Customs Service's Automated Manifest System which provides for advance information on such shipments 24 hours before the cargo is even loaded on the vessel in a foreign port, are adequate to meet any advance screening needs for food product cargo that is not being shipped for consumption in the United States.

The proposed rule states that the arriving or in-bond carrier is responsible for providing the notification for transit shipments through the United States for export. 68 Fed. Reg. at 5430. As WSC has correctly pointed out, ocean carriers would not be able to comply with the proposed rule because they do not possess, nor do they have access to, the information required to be provided for such shipments.

OLN-D278


C 182

Page 2

Furthermore, the rule has the potential of diverting business away from U.S. ports, to Canadian, Caribbean, or Latin American competitor ports which do not impose similar requirements. AAPA joins the WSC in urging the FDA not to apply the notice requirements for food products that are only being unloaded in a U.S. port for the purpose of being relayed at that port onto a different vessel for transit to a foreign country, nor for food products moving in-bond through the United States for export to and consumption in another country.

We greatly appreciate your consideration of our views.

Sincerely,



Kurt J. Nagle

KJN/jcg